

SEMINOLE COUNTY GOVERNMENT AGENDA MEMORANDUM

SUBJECT: Adoption of a Resolution and Authorization for the Chairman to Execute a Subordination of County Utility Interests Agreement with the Florida Department of Transportation for Property (FDOT ~ Parcel Numbers 104.2R and 802.2R) Necessary to Improve State Road 415 (from State Road 46 to the Volusia County Line)

DEPARTMENT: Public Works

DIVISION: Engineering

AUTHORIZED BY: Gary Johnson

CONTACT: Warren Lewis

EXT: 5658

MOTION/RECOMMENDATION:

Adopt a Resolution and authorize the Chairman to execute a Subordination of County Utility Interests Agreement with the Florida Department of Transportation for property (FDOT ~ Parcel Numbers 104.2R and 802.2R) determined necessary to improve State Road 415 (from State Road 46 to the Volusia County Line).

District 5 Brenda Carey

Jerry McCollum

BACKGROUND:

The Florida Department of Transportation (FDOT) has requested that Seminole County enter into an agreement to subordinate the County's present utility easement rights in lands described by FDOT as Parcel Numbers 104.2R and 802.2R and determined necessary to improve State Road 415 (from State Road 46 to the Volusia County Line).

STAFF RECOMMENDATION:

Staff recommends the Board adopt the Resolution and authorize the Chairman to execute a Subordination of County Utility Interests Agreement with the Florida Department of Transportation for property (FDOT ~ Parcel Numbers 104.2R and 802.2R) determined necessary to improve State Road 415 (from State Road 46 to the Volusia County Line).

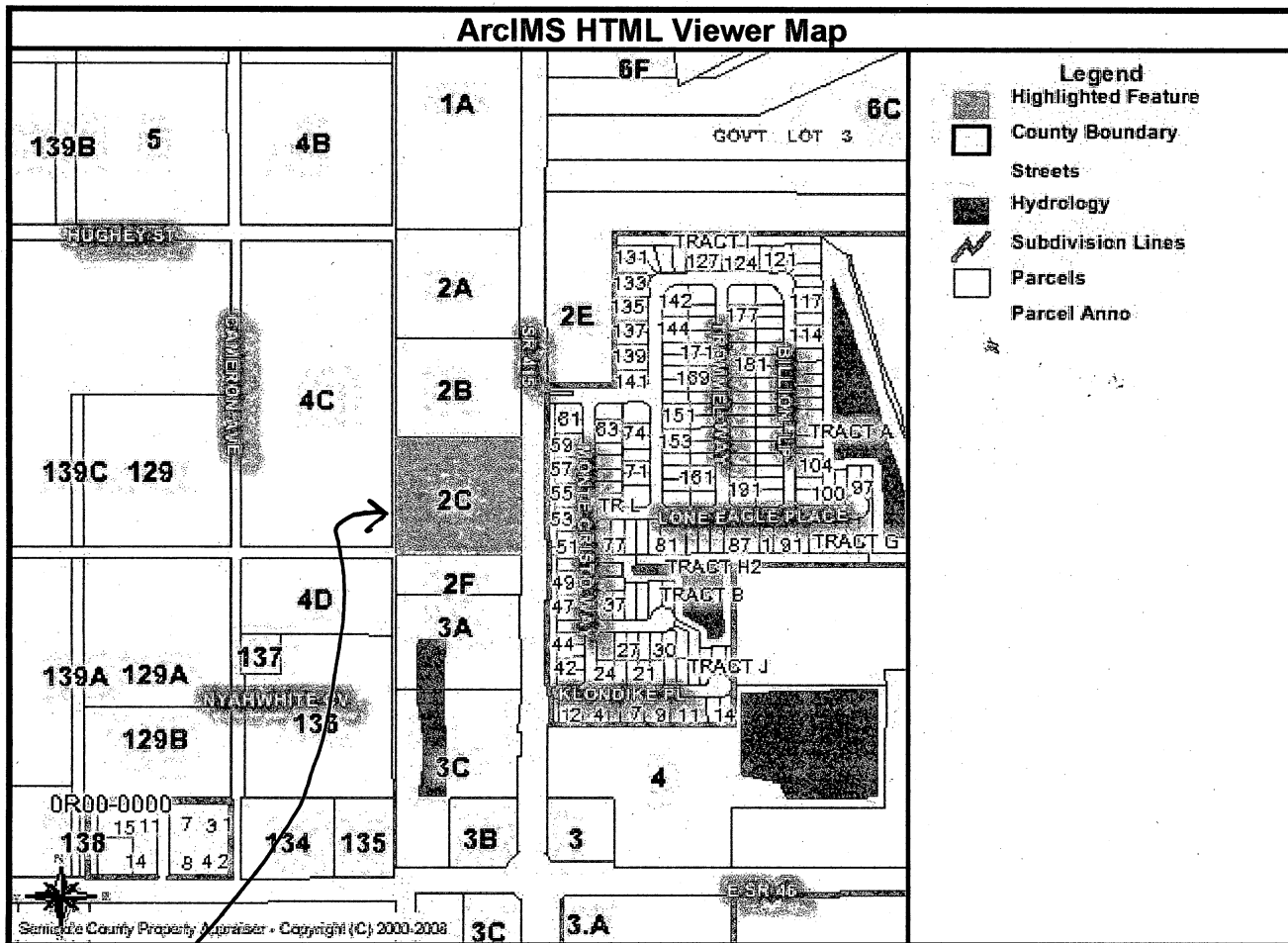
ATTACHMENTS:

1. Location Map-Subordination FDOT Parcels 104.2R & 802.2R-SR 415
2. Resolution-Subordination FDOT Parcels 104.2R & 802.2R-SR 415
3. Subordination of County Utility Interests

Additionally Reviewed By:

■ County Attorney Review (Matthew Minter)

Location Map



RESOLUTION NO. 2010-R_____

RESOLUTION

**THE FOLLOWING RESOLUTION WAS ADOPTED AT
THE REGULAR MEETING OF THE BOARD OF COUNTY
COMMISSIONERS OF SEMINOLE COUNTY, FLORIDA,
ON THE _____ DAY OF _____, 2010.**

WHEREAS, the State of Florida Department of Transportation proposes to improve State Road No. 415, Section No. 77161, F.P. No. 407355-1, in Seminole County, Florida; and

WHEREAS, it is necessary that certain utility interest rights now owned by Seminole County be subordinate to the rights of the State of Florida Department of Transportation; and

WHEREAS, the necessary lands are identified by the Florida Department of Transportation as Parcel Number 104.2R and 802.2R, Section No. 77161; and

WHEREAS, said use is in the best interest of the county; and

WHEREAS, the State of Florida Department of Transportation has made application to said County to execute and deliver to the State of Florida Department of Transportation for a Subordination of County Utility Interests in favor of the State of Florida Department of Transportation, subordinating the rights that the county has in and to said lands required for transportation purposes, and said request having been duly considered.

NOW THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Seminole County, Florida, that the application of the State of Florida Department of Transportation for a Subordination of County Utility Interest is for transportation purposes which are in the public or community interest and for public welfare; that a Subordination of County Utility Interests in favor of the State of Florida Department of Transportation identified as Parcel Number 104.2R and 802.2R, Section No. 77161 has been drawn and executed by this Board of County Commissioners.

ADOPTED THIS _____ DAY OF _____, 2010.

**BOARD OF COUNTY COMMISSIONERS
SEMINOLE COUNTY**

Attest:

Bob Dallari, Chairman

**MARYANNE MORSE, Clerk to the
Board of County Commissioners in
and for Seminole County, Florida.**

Prepared under the direction of:
Charles F. Barcus
Program Manager II/Right-of-Way
November 4, 2009

23-UTL02-09/01

August 27, 2009

This instrument prepared by

JENIFER PATTERSON

Under the direction of

FREDRICK W. LOOSE, ATTORNEY

Department of Transportation

719 South Woodland Boulevard

DeLand, Florida 32720-6834

PARCEL NO. 104.2R

SECTION 77161

F.P. NO. 407355-1

STATE ROAD 415

COUNTY SEMINOLE

SUBORDINATION OF COUNTY UTILITY INTERESTS

THIS AGREEMENT, entered into this _____ day of _____, _____, by and between the STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION, hereinafter called the F.D.O.T., and SEMINOLE COUNTY, hereinafter called County.

WITNESSETH:

WHEREAS, the County presently has an interest in certain lands that have been determined necessary for highway purposes; and

WHEREAS, the proposed use of these lands for highway purposes will require subordination of the interest claimed in such lands by the County to the F.D.O.T.; and

WHEREAS, the F.D.O.T. is willing to pay to have the County's facilities relocated if necessary to prevent conflict between the facilities so that the benefits of each may be retained.

NOW, THEREFORE, in consideration of the mutual covenants and promises of the parties hereto, County and F.D.O.T. agree as follows:

County hereby subordinates to the interest of F.D.O.T., its successors, or assigns, any and all of its interest in the lands as follows, viz:

PARCEL NO. 104

SECTION 77161

F.P. NO. 407355 1

That part of:

"The Northwest 1/4 of the Southwest 1/4 of Section 34, Township 19 South, Range 31 East, Seminole County, Florida, LESS, the North 930 feet thereof; Lying West of State Road 415."

Being those certain lands as described in Official Records Book 5916, Page 61 of the Public Records of Seminole County, Florida.

Being described as follows:

Commence at a 1/2" iron pipe with no identification marking the Northwest corner of the Northwest quarter of the Southwest quarter of Section 34, Township 19 South, Range 31 East, Seminole County, Florida; thence North 89°51'40" East along the North line of said Northwest quarter of the Southwest quarter, a distance of 474.40 feet to a point on the existing Westerly right of way line of State Road 415 as shown on the Florida Department of Transportation right of way map, Section 77161, Financial Project No. 407355 1; thence departing said North line, run South 00°18'26" East along said right of way line, a distance of 930.00 feet to a point on the South line of the North 930 feet of aforesaid Northwest quarter of the Southwest quarter and the POINT OF BEGINNING; thence departing said South line, continue South 00°18'26" East along said right of way line, distance of 390.02 feet to a point on the South line of aforesaid Northwest quarter of the Southwest quarter; thence departing said right of way line, run South 89°52'13" West along said South line, a distance of 10.00 feet; thence departing

PARCEL NO. 104.2R
SECTION 77161
F.P. NO. 407355-1
PAGE 2

said South line, run North 00°18'26" West, a distance of 390.02 feet to a point on aforesaid South line of the North 930 feet of the Northwest quarter of the Southwest quarter; thence North 89°51'40" East along said South line, a distance of 10.00 feet to a point on aforesaid Easterly right of way line of State Road 415 and the POINT OF BEGINNING.

Containing 3900 square feet, more or less.

This legal description prepared under the direction of:
William D. Donley, P.S.M.
Florida Registration No. 5381
Bowyer-Singleton & Associates, Inc.
110 West Indiana Ave., Suite 102
DeLand, Florida 32720

RECORDED

INSTRUMENT	DATE	FROM	TO	O.R. BOOK/PAGE
Access & Drainage Easement	01/08/97	Central Florida Family Health Center, Inc.	Seminole County	3201 / 1046

PROVIDED that the County has the following rights:

1. The Utility shall have the right to construct, operate, maintain, improve, add to, upgrade, remove and relocate road and utility facilities on, within, and upon the lands described herein in accordance with FDOT's minimum standards for such facilities as required by the FDOT Utility Accommodation Manual in effect at the time this document is executed. Any new construction or relocation of facilities within the lands will be subject to prior approval by FDOT, which approval shall be based on the application of the minimum standards referenced above and which approval shall be evidenced by the issuance of utility permit. If, based on the application of those minimum standards, FDOT does not approve new construction or relocation of facilities proposed by the Utility and such new construction or relocation could have proceeded upon the lands described herein but for the limitations imposed by this document, then FDOT shall bear the cost of acquiring any new easements necessary to proceed with said construction or relocation. If FDOT requires the Utility to alter, adjust, or relocate its facilities within said lands, then FDOT hereby agrees to bear the cost of such alteration, adjustment, or relocation. If FDOT requires Utility to relocate its facilities outside said lands, then FDOT hereby agrees to bear the cost of such relocation and if said relocation cannot take place within FDOT right of way, then FDOT also agrees to bear the cost of acquiring any easements necessary for the relocation.
2. Notwithstanding any provisions set forth herein, the terms of the utility permits issued pursuant to paragraph 1 hereof and Section 337.401(2) shall supersede any contrary provisions contained herein, with the exception of the provisions in paragraph 1 hereof that require FDOT to bear certain costs.
3. The Utility shall have a reasonable right to enter upon the lands described herein for the purposes outlined in Paragraph 1 above, including the right to trim such trees, brush and growth which might endanger or interfere with such facilities, provided that such rights do not interfere with the operation and safety of the F.D.O.T.'s facilities.

4. The Utility agrees to repair any damage caused by the Utility to F.D.O.T.'s facilities and to indemnify to the extent permitted under Florida Law the F.D.O.T. against any loss or damage resulting from the Utility exercising its rights outlined in Paragraphs 1 and 3 above.

IN WITNESS WHEREOF, the F.D.O.T. hereto has executed this agreement on the day and year first above written.

Signed, sealed and delivered
in the presence of witnesses:

SIGNATURE LINE
PRINT/TYPE NAME: _____

SIGNATURE LINE
PRINT/TYPE NAME: _____

STATE OF FLORIDA DEPARTMENT
OF TRANSPORTATION

By: _____
George S. Lovett, Attorney,
District Director Of
Transportation Development
for District Five
719 S. Woodland Blvd.
DeLand, Florida 32720

Approved as to Form,
Legality and Execution:

By: _____
District Counsel

STATE OF FLORIDA

COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this _____ day of _____, _____, by George S. Lovett, District Director of Transportation Development for District Five, who is personally known to me or who has produced _____ as identification.

PRINT/TYPE NAME: _____
Notary Public in and for the
County and State last aforesaid.
My Commission Expires: _____
Serial No., if any: _____

IN WITNESS WHEREOF, the County has caused these presents to be executed in its name by its Board of County Commissioners acting by the Chairperson or Vice-Chairperson of said Board, the day and year aforesaid.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
SEMINOLE COUNTY, FLORIDA

MARYANNE MORSE
Clerk to the Board of County Commissioners
of Seminole County, Florida

By: _____
Bob Dallari, Chairman

Date: _____

For the use and reliance
of Seminole County only.
Approved as to form and
legal sufficiency.

As authorized for execution
by the Board of County Commissioners
at their _____, 2009 regular meeting

County Attorney